WP(C) 2106/2007
BEFORE
HON'BLE MR JUSTICE H.N.SARMA
JUDGMENT AND ORDER (ORAL)

1. Heard Mr. M. Bhuyan learned counsel for the petitioners and Mr. D. Saikai, learned Standing counsel for the respondents.

2. The petitioners herein were engaged under the Health and Family Welfare(A), Department, Government of Assam as seasonal workers to spray DDT in different parts within the State of Assam. Such workers are required to be engaged seasonally to spray DDT to prevent re-occurrence of malaria in the State under the Government of India sponsored scheme and the engagement is made by the department of the State Government, the State Government being the implementing authority of the scheme. Engagement of the seasonal workers are made for 2(two) different seasons i.e. from April to June and July to September, in a particular area. The common grievance of the petitioners is that they were earlier engaged as seasonal workers to spray DDT by the Malaria branch of the Health department and when the subsequent batch of such workers are required to be engaged, instead of providing continuity to the earlier engaged persons, different persons are engaged to function as such. It is submitted that such action is unfair and highly discretionary and also against public interest in as much as such persons in the mean time by virtue of the earlier engagement earn reasonable experience in the field. On an earlier occasion, a batch of writ petitions raising similar issue was disposed of by this Court vide judgment and order dated 23.2.2007 passed in W.P(C) No. 3070/2006 and others. Although certain directions were issued in the said batch of writ petitions, it is contended by Mr. Bhuyan, that the same has not yet been given effect to and the process is now on to engage new persons having no experience in the field. Hence the petitioners have approached this Court by filing these writ petitions once again.

3. Noting the contentions raised by the petitioners, Mr. D. Saikia, learned Standing counsel for the respondents was asked to obtain necessary instructions, and the learned counsel called upon the concerned officials of the Health department to the Court to explain and inform the court as to what action has been taken by the respondents for implementation of the earlier direction. Consequently the Under Secretary, Health and Family Welfare Department, Government of Assam is present today in the Court. Upon instruction received by from the Under Secretary, Mr. Saikia submits that the process for compliance of the directions issued by this Court in the above noted batch of writ petitions has already been taken and in fact the Government has issued necessary directions to the Director of Health Services(FW) to comply with the order of this Court by adopting and/or formulating necessary guidelines/norms in this regard. The Under Secretary has also personally endorsed the same view and submits before the Court that framing of guidelines in terms of the direction issued by this Court for appointment is in final shape and within a few days it would be completed. He further submits that directions regarding consideration of preference/weightage to be given to the persons having experience in the field, has been already issued in respect of the next batch of engagement. .

1. At this stage it would be relevant to point out the directions issued in the earlier writ petition, which are as follows:

In view of the said discussion as well as the concession given by the respondents, it is hereby ordered that, before proceeding further with the process of selection, pursuant to the advertisement dated 29.9.2006, the respondents are directed to:-

(i) consider as to the relevancy or otherwise of the services rendered by the DDT Spray Workers under the Government of India Sponsored Scheme, to the services of the FW/SFW and to take a decision in that regard and, thereafter, to fix

the extent of preference/weightage to be given to such service in making selecti on to the post of FW/SFW.

ii) Issue the corrigendum in widely circulated newspapers published from Ass am indicating the extent of preference/weightage to be given and giving a furthe r opportunity to such persons to file their applications.

iii) consider whether any age relaxation can be given to such persons, if so, to indicate the same in the corrigendum to be issued as aforesaid.

iv) Issue corrigendum indicating the different categories of posts in Grade- IV available for recruitment including the numbers of posts available in each ca tegory.

5. Upon hearing the learned counsel for the parties and upon perusal of the available materials and taking note of the facts as disclosed by the Under Secr etary, Health and Family Welfare, Government of Assam, this Court is of the view that the respondents have in the meantime given due attention to the directions of this Court referred above for its due implementation. Accordingly these writ petitions are disposed of with the directions that necessary guidelines/norms a s contained in the aforesaid judgment be formulated within a period of not more that 15 days from today and in the engagement of the next batch of seasonal wor kers, the aforesaid directions are required would be followed, particularly givi ng preference to experience.

With the aforesaid directions and observations these writ petitions stan ds disposed of